



Committee Secretary
Economics and Governance Committee
Parliament House, George Street
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Dear Committee Secretary

Brisbane Residents United submission to the Inquiry into the Report of the Strategic Review of the Functions of the Integrity Commissioner

Thank you for the opportunity to make a submission to the Economics and Governance Committee re this inquiry.

This submission is made on behalf of Brisbane Residents United (BRU), Brisbane's peak body for community resident actions groups. Whose purpose is to:

- Represent Brisbane and surrounding district residents and provide them with a united voice Governments on matters pertaining to urban planning and development.
- Act as a resource centre, facilitating information sharing across established and start-up local resident associations.

BRU is a non-partisan and not-for-profit incorporated association that represent the interests of the broader community.

BRU encourages and generally supports the Government's actions in undertaking various reforms to improve the accountability and transparency of both local and state government in Queensland.

The functions of the Integrity Commissioner should be considered as an important element in a suite of independent agencies (including the CCC, the Ombudsman and the Queensland Audit Office) which co-exist to ensure the public interest is well served by those who are paid from the public purse.

In view of the many challenges to government accountability and transparency, it is important that accountability agencies including the Integrity Commissioner be empowered and resourced to investigate and deal with misbehaviour by public servants, lobbyists and people elected to public office.

Introduction

This review of the functions of the Integrity Commissioner was implemented with the following Terms of Reference:

Terms of Reference cross-reference to the report structure

- 1. Have regard to the functions of the Integrity Commissioner and purpose of the Act in assessing the ongoing economy, efficiency, and effectiveness of the office of the Integrity Commissioner.*
- 2. Have regard to the Integrity Commissioner's annual reports, strategic plan, the organisational structure, goals, operational conduct, internal/external policies, operational management, corporate management, and service provision of the Integrity Commissioner.*
- 3. Consider comparative models, practices and procedures used by offices in other jurisdictions equivalent to the Integrity Commissioner.*
- 4. Consider the recommendations from the 2015 Review, the recommendations of the former Parliamentary Finance and Administration Committee (FAC) report on the 2015 Review, and the government's response to the former FAC's report, particularly to the extent to which they have been implemented and whether they are achieving the desired objectives.*
- 5. Consider any matters raised during the performance of the Parliamentary Committee's functions under Section 89 of the Act.*
- 6. Consider whether existing provisions are appropriate and effective in regulating contact between lobbyists and government and Opposition representatives, including by former government and Opposition representatives, having regard to public expectations of transparency and integrity.*
- 7. Consider whether specific investigative powers are required to effectively regulate lobbying activities.*
- 8. Consider the powers and responsibilities of similar offices in other Australian jurisdictions.*

Recommendations

The following recommendations were contained in static review to this Inquiry. BRU wishes to provide some specific comments on the following recommendations.

Integrity Commissioner's advisory function

Recommendation 1 Section 5.6

The inability of the Integrity Commissioner to meet the current level of demand for advice be addressed by either:

- A. *discontinuing, or reassigning to other more appropriate agencies, superfluous functions and amending the Act to eliminate duplication where other appropriate advice structures exist, (as outlined in Recommendations 2 to 4 and 7). This will improve the economy and efficiency of the integrity system, enhance accountability and provide greater transparency in respect of the advice function, or*
- B. *undertake a workforce review to identify the resources required to respond to all requests for advice including those currently the subject of service limits.*

Response:

The Integrity Commissioner must be properly resourced so that they can fully perform the functions required by legislation. Not being able to provide timely advice in a frank and fearless fashion causes the office to become part of the problem not part of the solution.

Recommendation 2 Section 6.1

To bring transparency to the nomination of a designated person (or persons) and avoid unmonitored incremental creep in numbers of those who can access Integrity Commissioner advice beyond which there is capacity to service:

- A. *provide for future nominations of Designated Persons to be by amendment to Section 12 of the Act or by Regulation,*
- B. *repeal Section 12 (1) (h) of the Act that allows a Minister or Assistant Minister to (without limitation) nominate a person or an individual within a class of person,*
- C. *sunset the right of individuals previously nominated under this provision to request advice at the time the section is repealed, and*
- D. *repeal Section 17 (e) and 18 (b) of the Act (as consequential amendments).*

Response:

The Integrity Commissioner must be properly resourced so that they can fully perform the required functions for everyone necessary.

Recommendation 3 Section 6.1.1.3

Section 12 (1) (d) of the Act that enables a "senior executive or senior officer" to unilaterally seek advice from the Integrity Commissioner be amended to omit "senior officer".

There is a large cohort of "senior officers" within the public sector who have access to advice through departmental structures. The effect of this recommendation would be to eliminate situations where the Integrity Commissioner is unable to be satisfied as to full context of a matter on which advice is being sought from a departmental officer below the executive level in departments. This is consistent with the accountability Chief Executives have under the Public Service Act for ensuring their agency acts with integrity and the ethical conduct of its employees.

Response:

The Integrity Commissioner must be properly resourced so that they can fully perform the required functions for everyone necessary.

Recommendation 4 Section 6.1.1.4

In relation to advice able to be sought by designated persons "post separation", consideration be given to Section 20A (2) of the Act being amended to clarify that:

- A. *a) in respect of a designated person who is a former public servant Integrity Commissioner advice does not extend to contractual matters pertaining to post separation obligations, (in recognition the Integrity Commissioner being unable to provide legal advice), or*
- B. *b) advice in respect of a designated person who is a former public servant is limited to related lobbying activity.*

Response:

The Integrity Commissioner must be properly resourced so that they can fully perform the required functions for everyone necessary. This is essential where officers and senior executives move between the public service and private enterprise. It is particularly important if the officer or executive is moving into the lobbying industry.

Integrity Commissioner's lobbying regulation function

Recommendation 8 Section 7.1

To enhance transparency in respect of contact by employees of organisations and associations who represent that entity's own interest:

- A. *the government provide more specific criteria as to the information that must be included in Ministerial diaries as to the purpose of the meeting, including the possibility of a pre-set menu of options, and*
- B. *the Leader of the Opposition's diary contain similar detail in respect of meetings with those employed within organisations and associations who represent that entity's own interests.*

Response:

One of the few information sources that the general public have available to them to be able to understand the power of the lobbying industry are ministerial diaries. These diaries should be available for all politicians no matter their level. The more information that is available to the general public the better. There has been disturbing trend to a decrease in accountability and transparency in government at all levels.

Recommendation 9 Section 7.1

While not broadening the definition of 'lobbyist' in Section 41 of the Act, provide clarification as to the meaning of entity to include an individual, organisation or related party (as defined in the ASA 550 Auditing Standard).

Response:

Agree

Recommendation 11 Section 7.3

To improve its effectiveness, the Act be amended to make unregistered lobbying activity an offence, together with penalties commensurate with those in other legislation for acts of deception intended to subvert the integrity of public administration.

Response:

Agree

Recommendation 12 Section 7.4.1

To enable auditing of lobbyists records and monitor compliance, the Act be amended to require government representatives or Opposition representatives to provide meeting records and other relevant information when requested by the Integrity Commissioner.

Response:

BRU welcomes any legislation that increases the level of accountability and transparency in government.

Recommendation 14 Section 7.4.3

To improve the effectiveness in the regulation of lobbying:

- A. *the Act be amended to provide for the Integrity Commissioner to refer matters to the CCC:*
1. *when there is information available that the activities of a registered lobbyist may offend the provisions of Section 15 of the Crime and Corruption Act, or*
 2. *an individual or entity is allegedly undertaking lobbying activities (as defined by the Act) but who are not registered (i.e., unlawful lobbying),*
- B. *the Integrity Commissioner be given powers to warn lobbyists upon becoming aware of alleged misconduct without reference to the CCC, and*
- C. *an assessment be made as to whether consequential amendments to the Crime and Corruption Act are necessary to enable the investigation of alleged corrupt activity on the part of a lobbyist, (as distinct from the public official) and any other matter referred by the Integrity Commissioner as constituting serious misconduct that warrants investigation.*

Response:

BRU welcomes any legislation that increases the level of accountability and transparency in government. This is particularly important with the amount of influence both formal and informal wielded by the lobbying industry.

Recommendation 15 Section 7.5

To improve transparency in relation to the nature of contacts with government representatives and Opposition representatives, lobbyists be required, when entering details on the Lobbyist Register, to provide a short explanation of the subject matter when selecting the 'other' category.

Response:

BRU welcomes any legislation that increases the level of accountability and transparency in government.

Recommendation 16 Section 7.6

To ensure possible conflict of interest situations are properly addressed where a company is supplying services to government but also works for non-government clients, the Queensland government Supplier Code of Conduct be amended to provide that:

- A. *when submitting a proposal to undertake work for the government, a firm be required to make a specific statement addressing Item 3.2 (Managing conflicts of interest) and attach a copy of the company Conflict of Interest policy where they have one, and*
- B. *Conflict of Interest be added as one of the due diligence checks to be made as part of the evaluation process.*

Response:

BRU welcomes any legislation that increases the level of accountability and transparency in government.

Recommendation 17 Section 7.7

In relation to lobbyists working in an advisory capacity to political parties, the Integrity Commissioner update the Lobbyists Code of Conduct to include a specific Conflict of Interest Policy that could be referenced as part of the Ministerial Code of Conduct to which Ministers commit, and lobbyists as part of their registration.

Response:

BRU welcomes any legislation that increases the level of accountability and transparency in government.

Integrity Commissioner's public awareness function**Recommendation 19 Section 8.1**

The Integrity Commissioner continue to develop education material as this can reduce the demand on the office to respond to requests for basic information, freeing time and resources to conduct the advisory and lobbyist regulation functions.

Response:

Agree

Recommendation 20 Section 8.2

The expertise and knowledge of the Integrity Commissioner be used to build capacity and competency across the public sector by:

- A. *continuing to make presentations to Statutory Boards and agency Chief Executives regarding best practice in meeting community expectations in respect of integrity in public administration, and*
- B. *continuing the education, training and professional development of those in public sector agencies who provide advice to employees regarding integrity and ethics matters.*

Response:

Agree

Recommendation 21 Section 8.3

To improve understanding of the requirements of Chapter of the Act (Regulation of Lobbying Activities), its intent and obligations, the Integrity Commissioner:

- A. *develop educational materials tailored to needs of registered lobbyists and relevant public officials and undertake training sessions, and*
- B. *create a compulsory training module that promotes best practice within the lobbying industry active in Queensland, and*
- C. *require successful completion of the module by all currently registered lobbyists and those who intend to register, as a condition for registration.*

Response:

Agree

Performance of the Integrity Commissioner's functions**Recommendation 23 Section 9.2.2**

The Integrity Commissioner and the DPC ICT team complete, as a priority, work being undertaken to scope an upgrade or replacement of the Lobbyist Register platform, and once a solution has been identified that funding be given favourable consideration to enable its prompt implementation.

Response:

Agree

Organisational arrangements supporting the Integrity Commissioner**Recommendation 24 Section 10.1**

To enhance the independence of the Integrity Commissioner:

- A. *there should formally be established an Office of the Integrity Commissioner as an independent unit within DPC consistent with the function being one within the portfolio of the Premier, and*
- B. *the Integrity Commissioner be accountable for the performance of the office in discharging the functions under the Act within the budget provided, and financial delegations commensurate with prudent financial management under the Financial Accountability Act, and*
- C. *staff be appointed directly to the office and (although public servants) be managed autonomously by the Integrity Commissioner.*

Response:

For the Integrity Commissioner to function effectively they need a degree of autonomy and independence so they are not unduly influenced by political or bureaucratic interference.

Conclusion

An article in the Guardian reports :

“Australia has recorded its worst ever score on a key measure of corruption after a long-term decline equal to that of authoritarian Hungary.

The failure to reform Australia’s foreign bribery laws and take greater action to regulate lobbying, donations, and the revolving door between big business and politics were also cited by Transparency International, as were lax financial regulations, which allowed Australia to be used as a launching pad for corruption in the region.”

<https://www.theguardian.com/world/2022/jan/25/australia-records-its-worst-ever-score-on-anti-corruption-index-after-decline-to-match-hungarys?>

Australian governments have become decreasingly accountable and transparent. The Freedom of Information legislation that once promised so much is now almost an expensive and decreasingly irrelevant joke.

We consider that an Integrity Commissioner is an important component of various measures to ensure that government operates in the public interest. The Integrity Commissioner needs to be utilised in the most effective manner to bring maximum benefit to the community as a whole.

We are happy for our submission to be made public and would welcome the opportunity to appear at one of the Committee’s public hearings. Should you require any further information I can be contacted on [REDACTED].

Yours sincerely

Elizabeth Handley

President.

The Brisbane Residents United Inc Steering Group